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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,302	10/15/2005	Glynn Humphries		1891

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JOHN V STEWART
1308 HENRY BALCH DRIVE
ORLANDO, FL 32810

EXAMINER

MEYER, JACOB B

ART UNIT	PAPER NUMBER
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3618

MAIL DATE	DELIVERY MODE
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05/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,302	Applicant(s) HUMPHRIES ET AL.	
	Examiner JACOB MEYER	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14 and 17 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12, drawn to an apparatus for use in the storage and transportation of recyclable waste.

Group II, claim(s) 12 and 14, drawn to a method of manufacture of an apparatus for use in the storage and transportation of recyclable waste.

Group III, claim(s) 13 and 17, drawn to a method of manufacture of an apparatus for use in the storage and transportation of recyclable waste wherein a mould is modified.

2. As stated under PCT Rule 13, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical feature is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. The single general inventive concept and special technical feature in the instant application comprises an apparatus for use in the storage and transportation of recyclable waste, the apparatus comprising a housing (10) having a bottom (16) for standing on the ground, a rear wall (20), a pair of opposed side walls (22), a handle (26) adjacent the top and rear of the housing, a pair of wheels (28) adjacent the bottom and rear of the housing and arranged such that the housing can be

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tipped rearwardly using the handle so that the wheels engage the ground, so that the bottom of the housing no longer engages the ground and so that the apparatus can be moved on the wheels using the handle to move it, the housing providing at least one space (48) accessible from the front of the housing, the or each space being arranged to receive at least one recycling box (12) having a base (30), four side walls (32) and an open top, the apparatus having means (14,52,64,86) for supporting the or each recycling box in its space such that the or each recycling box can be slid into the housing from the front and such that when the or each recycling box is in the housing the front-facing side wall(s) of the recycling box(es) substantially close(s) the front of the housing and the recycling boxes are covered. Rheinwerk et al (DE 90 12 396) discloses this special technical feature, particularly in the description and Figures 3-4. Similarly, Rothe (DE 94 19 241) disclosed this special technical feature in Figures 1-4. Therefore, the single inventive concept cannot be considered a special technical feature because it does not make a contribution over the prior art. Consequently, the inventions listed as Groups I, II, and III do not relate to a single general inventive concept.

3. Furthermore, Inventions I, II, and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product for use in the storage and transportation of recyclable waste can be made by another and materially different process from the method of claim 12 by the method of claim 13 or perhaps by a method that does not include molding at all. Similarly, the product for

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use in the storage and transportation of recyclable waste can be made by another and materially different process from the method of claim 13 by the method of claim 12 or again, perhaps by a method that does not include molding at all.

4. Upon election of either Invention I, Invention II, or Invention III, Applicant is requested to further choose one of the below listed species, and those claims within the scope of the above elected invention that are drawn to said elected species.

5. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a. Species 1, disclosed in Figure 3,
- b. Species 2, disclosed in Figure 7 (wherein the compartments are integrally molded with the housing and a tray is molded at the top),
- c. Species 3, disclosed in Figure 8 (wherein a pair of generally horizontal, mutually-parallel runners are employed and the top tray is removable),
- d. Species 4, disclosed in Figure 9 (wherein a horizontal partition is included so that the space above the partition can be used for general refuse),
- e. Species 5, disclosed in Figure 10 (wherein three shelf moldings, rails, and floors are used such that the distance between the notches differ due to the side walls of the bin converging towards each other in the downwards direction),

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- i. Species 5A, disclosed in Figure 13 (wherein each shelf molding is closed and four identical half-rails are used),
- f. Species 6, disclosed in Figure 14 (wherein three identical shelf moldings and eight identical molded rods are used to create a vertical support structure).

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

- 2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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3. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACOB MEYER whose telephone number is (571)270-3535. The examiner can normally be reached on Monday - Friday 9am to 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art Unit
3618

/J. M./
Examiner, Art Unit 3618
05/20/2008